IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 1312 of 2007(F)

PETITIONER:

K. RAVEENDRAN, S/O.CHATHUKUTTY,
AGED 59 YEARS, KAKKANDAPARAMBATH HOUSE,
PATTIAM, PATHAYAKUNNU POST,
THALASSERY, KANNUR DISTRICT.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:
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1. THE JOINT REGIONAL TRANSPORT OFFICER,
THALASSERY.

2. THE DEPUTY TRANSPORT COMMISSIONER
NORTH ZONE, KOZHIKODE.

3. THE TRANSPORT COMMISSIONER,
THIRUVANANTHAPURAM.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: PHOTOCOPY OF PERMIT DT.11.12.97 ISSUED IN RESPECT OF CONTRACT CARRIAGE KL-13/4545.

P2: PHOTOCOPY OF FITNESS CERTIFICATE ISSUED IN FORM NO.38 IN RESPECT OF CONTRACT CARRIAGE KL-13/4545.

P3: PHOTOCOPY OF INSURANCE NO.492485 ISSUED BY UNITED INDIA INSURANCE CO. LTD. IN RESPECT OF CONTRACT CARRIAGE KL-13/4545.

P4: PHOTOCOPY OF R.R. NOTICE ISSUED BY REVENUE RECOVERY OFFICER, THALASSERY, IN RESPECT OF CONTRACT CARRIAGE KL-13/4545, DT.16.4.2005.

P5: PHOTOCOPY OF JUDGMENT DT.8.7.2005 IN WPC NO.13511/2005 H OF THIS HON'BLE COURT.

P6: PHOTOCOPY OF ORDER DT.2.9.2005 ISSUED BY R2 TO THE PETITIONER.

P7: PHOTOCOPY OF CERTIFICATE DT.19.9.2006 ISSUED BY S.I.OF POLICE, PANOOR POLICE STATION.

P8: PHOTOCOPY OF PROCEEDINGS DT.28.8.06 OF THE TAHSILDAR(RR), THALASSERY TO THE PETITIONER.

P9: PHOTOCOPY OF ORDER DT.30.9.2006 ISSUED BY R3 TO THE PETITIONER.

P10: PHOTOCOPY OF COVERING LETTER DT.18.4.2007 SUBMITTED BY PETITIONER BEFORE R1.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.1312 of 2007

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Dated this the 11th day of July, 2007.

JUDGMENT

Heard counsel for the petitioner and the Government Pleader. Petitioner's case is that the contract carriage vehicle having Reg. No.KL-13/4545 was seized by Police on 6.11.2002 when it was under G Form. While the vehicle was in police custody, it was sold on 22.8.2006 and the amount recovered is adjusted towards arrears of tax. The RTO issued proceedings on 7.7.2007 stating that petitioner has to pay arrears of tax at contract carriage rate upto 31.12.2002 and from 1.1.2003 onwards at the rate applicable to non-transport vehicles. Since the vehicle was seized on 6.11.2002, obviously no tax could be recovered for December 2002 onwards until release and if at all petitioner is liable, liability will be there until 30.11.2002. So far as the later period is concerned, this court has held that no tax is payable during period when the vehicle was in police custody, if G form was submitted. Since petitioner has serious objections against the demand raised by the RTO vide letter dt.7.72007, the W.P. is disposed of directing the petitioner to file detailed reply treating the same as a proposal by RTO to demand tax and the RTO will consider the objections within two

weeks from date of receipt of copy of this judgment, go through Full Bench judgment of this court and pass final orders within two weeks thereafter. Recovery proceedings will be kept in abeyance for two months from now and thereafter recovery will be based on orders of the RTO after hearing the petitioner. If petitioner has grievance against the order of the RTO, petitioner can file appeal against the said order.

C.N.RAMACHANDRAN NAIR
Judge

pms